

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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In re

## **CONSOLIDATION ORDER**

## NIGERIA CHARTER FLIGHTS LITIGATION.

MDL 04-1613

This document relates to:

CV 04-0304 (RJD) (MDG)  
(lead action)

AGUJIOBI v. WORLD AIRWAYS

CV 05-0555

By order dated March 31, 2004, this Court consolidated four actions pending in this Court which raised similar claims regarding the cessation of charter flights to and from Nigeria by World Airways and directed that Anyoku v. World Airways, Inc., 2004 CV 304 be the lead case (the "Consolidated Actions"). By order dated June 21, 2004, the Judicial Panel on Multidistrict Litigation granted the application of World Airways to centralize various litigations raising similar claims in this district. See In re NIGERIA CHARTER FLIGHTS LITIGATION, 2004 MDL 1613 (ct. doc. 1) (the "MDL"). The Panel initially transferred three actions from other districts to this district. Subsequently, other cases commenced in other districts have been transferred to this MDL and other cases commenced in this district have been consolidated into the Consolidated Action and included as "tag-along cases" in the MDL.

By application dated June 15, 2005, defendant World Airways, Inc. requested that Agujiobi v. World Airways, 2005 CV 555 (JG) (LB) (the "Agujiobi Action") be consolidated with the Consolidated Actions and the MDL. After reviewing the application and prior proceedings in the above captioned matters and conferring with counsel in the MDL at a conference held on February 8, 2006, the Court finds that the claims in the Agujiobi Action raise questions of law and fact in common with the claims raised in the Consolidated Actions and that consolidation of the Agujiobi Action into the Consolidated Actions would promote the just and speedy determination of the actions.

It is hereby ORDERED as follows:

The Agujiobi Action is hereby consolidated into the Consolidated Actions and shall be subject to the terms of the March 31, 2004 consolidation order. The action shall be treated as a "tag-along action" pursuant to Multidistrict Litigation Rule 7.5(a) and shall be subject to the case management order dated October 20, 2004 filed in the MDL. Copies of both those orders will be sent to plaintiff Emmanuel Agujiobi, along with this order. He is advised that he should confer with the Co-Lead and Liaison Counsel appointed in the MDL with respect to any pretrial matters herein.

Mr. Agujiobi is further advised that the Honorable Raymond J. Dearie issued a decision on January 20, 2006 in the Anyoku Action certifying "a single class of individuals who purchased tickets prior to January 31, 2004, for travel between Nigeria and the United States, whom defendant failed to convey as scheduled

due to its discontinuation of flight operations to and from Nigeria on or about December 28, 2003." A copy of the decision will also be sent to plaintiff. Since Mr. Agujiobi falls within the definition of the class certified by Judge Dearie, he is advised he has the right to elect to proceed in his own action or may forego his individual litigation and proceed as a member of the class. Because a notice to potential class members may not be sent for some time until any appeal by World Airways is resolved, Mr. Agujiobi will not have to make a formal election as to whether he chooses to opt out of the class. However, as noted above, he is subject to the orders entered in the Consolidated Actions and the MDL described above.

Since this Court may need to conduct further conferences to insure prompt completion of discovery, Mr. Agujiobi is directed to indicate whether he is likely to choose to be a member of the class. If he wishes to be a class member, he need not participate in discovery at this time.

Mr. Agujiobi should promptly send a letter to the Court and counsel for the class regarding his intentions in joining the class. For his reference, portions of the docket sheet in the Anyoku Action, which set forth the names of counsel for the class, will also be enclosed with this order.

Dated: Brooklyn, New York  
February 14, 2006

/s/  
MARILYN D. GO  
UNITED STATES MAGISTRATE JUDGE